IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.11.2006

CORM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
and
THE HON'BLE MR. JUSTICE S. TAMILVANAN

Writ Petition No.18032 of 1998

Hotel Atlantic Pvt. Ltd.,
rep. By its Authorised
Signatory S. Krishnan
2 Montieth Road, Egmore
Chennai 8. .. Petitioner

Vs.

1. The State of Tamil Nadu
   rep. By its Commissioner & Secretary
   Housing and Urban Development Dept.,
   Fort St. George, Chennai 9.

2. The Member Secretary
   Madras Metropolitan
   Development Authority
   Thalamuthu Natarajan Building
   Gandhi Irwin Road, Chennai 8. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records of the 2nd respondent made in Letter No.C3/27743/97 dated 06.10.98 and quash the same as stated therein.

For petitioner : Mr. Adinarayana Rao
for Mr. G. Rajan

For respondents : Mr. P. Subramanian
Government Advocate for R.1

Mr. J. Ravindran for R.2

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

Aggrieved by the letter dated 06.10.1998 of the second respondent - Chennai Metropolitan Development Authority (CMDA), calling upon the petitioner to remit a sum of Rs.78,20,000/- towards Open Space Reservation charges (OSR charges) within 15 days on receipt of the said letter, the petitioner has filed the above writ petition.

2. Heard the learned counsel for the petitioner as well as the respondents.

3. In view of the order to be passed hereunder, we are of the view that it is unnecessary to refer all the factual matrix as stated by the petitioner and the respondents in their affidavit and counter affidavit respectively. However, it is relevant to point out that though various amounts have been claimed towards OSR charges, ultimately, at one stage, i.e., on 02.09.2005, the petitioner, realising the ground position and the Rules applicable, agreed to remit a sum of Rs.6,26,500/- with interest from 10.12.1987. The said letter addressed to the Member Secretary, CMDA, is available in the file produced by the learned counsel for CMDA (vide page 199). The learned counsel appearing for the petitioner fairly agrees that if direction is issued for payment of the said amount, no further adjudication is required in this petition.

4. Considering the fact that the second respondent is not consistent in claiming OSR charges, particularly on various dates and of the fact that first of all the impugned demand dated 06.10.1998 was made without an opportunity or notice to the petitioner and secondly how the said amount was determined, we are inclined to direct the petitioner to remit the admitted amount of Rs.6,26,500/- with interest as stated in their letter dated 02.09.2005.

5. Accordingly, while quashing the impugned order of the second respondent dated 06.10.1998, the petitioner herein is directed to remit a sum ofRs.6,26,500/- with interest at the rate of 6% per annum from 10.12.1987 to the second respondent CMDA within a period of four weeks from the date of receipt of a copy of this order. The writ petition is ordered accordingly. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Commissioner & Secretary
   State of Tamil Nadu
   Housing and Urban Development Dept.,
   Fort St. George, Chennai 9.

2. The Member Secretary
   Madras Metropolitan
   Development Authority
   Thalamuthu Natarajan Building
   Gandhi Irwin Road, Chennai 8.

1 cc To The Government Pleader, SR.57033.

WP.No.18032/1998

KG(CO)
RVL 01.12.2006

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